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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,217	05/31/2001	Hannel Schmidt	10191/1821	1693
26646	7590	10/21/2003	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			MCCALL, ERIC SCOTT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/871,217

Applicant(s)

SCHMIDT, HANNIEL

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**METHOD AND DEVICE FOR DETERMINING A  
BASIC VALUE OF AT LEAST ONE MEASURED  
QUANTITY OF A BRAKE SYSTEM**

**NON-FINAL OFFICE ACTION**

In response to the Applicant's request for continued examination dated Aug. 20, 2003.

**DRAWINGS**

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the reference signs "28" and "240" which are mentioned in the description at page 3, line 7 and page 7, line 7 respectively.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

**CLAIMS**

**35 U.S.C. § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

The Applicant's added limitation to the end of claim 1 is indefinite as to the specific meaning thereof because said phrase suggests that the brake system is not in operation which contradicts an earlier limitation in claim 1 that suggests that the brake system is in operation because the measured value is assumed when the brake system is activated.

**35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlichenmaier et al. (5,717,134).

With respect to claim 1, Schlichenmaier et al. teach a method for determining a basic value of at least one measured quantity of a brake system, the at least one measured quantity being a basis for controlling the brake system, the method comprising:

assuming a measured value (col. 2, lines 64-66; a value for determining the degree to which a brake pedal has been actuated) of the at least one measured quantity (ie. brake pedal movement) available on activation of the brake system as the basic value; and

forming a measured signal (ie. determining a nominal value as set forth col. 3, lines 1-3) for adjusting a brake pressure (col. 3, lines 8-10) for controlling the brake system as a function of the at least one measured quantity and the basic value (ie. the brake system is controlled based on the measured quantity, brake pedal movement), wherein the basic value (ie. "value"; col. 2, line 64) represents a measured value for a control of a device (ie. brake system) that is associated with the basic value and that is associated with the basic value and that is not in operation.

With respect to claim 2, the prior art suggests the claimed subject matter thereof (col. 2, lines 64+).

With respect to claim 3, the prior art suggests the claimed subject matter thereof (col. 5, lines 3+).

With respect to claims 4 and 5, the prior art suggests the claimed subject matter thereof (col. 3, lines 4+).

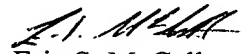
With respect to claim 6, the prior art suggests the claimed subject matter thereof (col. 5, lines 20+).

With respect to claims 7 and 8, the prior art suggests the claimed subject matter thereof (col. 5, lines 3+).

With respect to claim 9, said claim parallels that of claim 1 and thus the above comments pertaining to claim 1 also apply to claim 9.

**CONCLUSION**

Any inquiry concerning this communication should be directed to Eric S. McCall at telephone number (703) 308-6968.

  
Eric S. McCall  
Primary Examiner  
Art Unit 2855  
Oct. 17, 2003